	(1) 921 REQUEST FOR COUNCIL ACTION CITY OF SAN DIEGO  1. CERTIFICATE NUMBER (FOR AUDITOR'S USE ONLY)  AC 29000'''																
TO:	2. FROM (ORIGINATING DE CITY COUNCIL CITY ATTORNE			•				3. DATE:	117								
4. SUBJECT: RETENTION OF LATHAM & WATKINS, LLP FO							July 7, 2008	07/29									
SUPER	NOR COUR	TION OF LATHAM & T CASE NO. 37-2000 NAME, PHONE, & MAIL STA.	83941-CU-IC-CTL	OR LEGAL SE				SURANCE V. CITY OF SA									
		619) 533-5816, MS	·			-5878, MS 59			X								
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1.			Case No. 37-2008-06	0083941-CU			e City in the ca	ise of Scottsdale Insurai	1. Authorizing \$100,000 for retention agreement for outside counsel in the defense of the City in the case of Scottsdale Insurance v. City of San Diego, Superior Court Case No. 37-2008-00083941-CU-IC-CTL.								
2.			APProprinte લખન 2. Authorizing the City Comptroller to expend up to \$100,000 from the Public Liability Fund for the coverage of														
Latham & Watkins' (up to \$100,000) legal fees and costs related to this matter.									į								
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#### **EXECUTIVE SUMMARY SHEET**

**DATE ISSUED:** 

July 7, 2008

**REPORT NO.:** 

**ATTENTION:** 

COUNCIL PRESIDENT AND COUNCILMEMBERS

**ORIGINATING DEPARTMENT:** City Attorney

#### **SUBJECT:**

Contract with Latham & Watkins for Insurance Law services in the matter entitled Scottsdale Insurance Company v. City of San Diego dba: Mission Bay Mobile Home Park, San Diego Superior Court Case No. 37-2008-00083941-CU-IC-CTL.

COUNCIL DISTRICT(S): ALL

#### **CONTACT/PHONE NUMBER:**

Maria Severson, Chief Deputy City Attorney/533-5816 Lawrence Tomanek, Chief Deputy City Attorney/236-6220

#### **REQUESTED ACTION:**

Authorize the City Attorney to execute an Agreement on behalf of the City of San Diego to engage Latham & Watkins LLP as Outside Counsel for the sole purpose of representing the City in this insurance lawsuit arising out of Scottsdale Insurance's payment of legal defense costs in the action entitled Scottsdale Insurance Company v. City of San Diego dba: Mission Bay Mobile Home Park, San Diego Superior Court Case No. 37-2008-00083941-CU-IC-CTL. Scottsdale Insurance seeks reimbursement of fees and costs paid in that matter, stating it had no coverage obligations after certain rulings by the Superior Court in that action.

Approve the Resolution to authorize the City Attorney to execute an agreement not to exceed \$100,000 between the City of San Diego and Latham & Watkins LLP for insurance law legal services as Outside Counsel for the sole purpose of representing the City in Scottsdale Insurance Company v. City of San Diego dba: Mission Bay Mobile Home Park, San Diego Superior Court Case No. 37-2008-00083941-CU-IC-CTL.

#### **STAFF RECOMMENDATION:**

Approve the Resolution

#### **EXECUTIVE SUMMARY:**

\$100,000 has been approved for this matter in Closed Session.

In the Closed Session Meeting of June 24, 2008, the City Council voted on Item CS-3, Scottsdale Insurance Company v. City of San Diego dba: Mission Bay Mobile Home Park, San Diego Superior Court Case No. 37-2008-00083941-CU-IC-CTL, to approve retention of Latham & Watkins to defend the City. The motion was made by Councilmember Frye and the second by Councilmember Atkins. The motion passed 7 to 0 with Councilmember Young absent.

#### **FISCAL CONSIDERATIONS:**

The City shall compensate Latham & Watkins LLP based on its hourly rates for consulting services. This Request has a not-to-exceed amount of \$100,000 and will be borne by the Public Liability Fund.

#### PREVIOUS COUNCIL and/or COMMITTEE ACTION:

This is the initial request for approval of services for the above listed matter. The firm of Latham & Watkins LLP previously has provided other legal services to the City.

### **COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

None

#### **KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):**

Latham & Watkins LLP

wrence V. Tomanek

Chief Deputy City Attorney

# The City of San Diego CERTIFICATE OF CITY AUDITOR AND COMPTROLLER

000925

## CERTIFICATE OF UNALLOTTED BALANCE ORIGINATING

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RESOLUTION NUMBER R-	
DATE OF FINAL PASSAGE	

A RESOLUTION OF THE CITY OF SAN DIEGO AUTHORIZING THE RETENTION OF LATHAM & WATKINS FOR THE PURPOSES OF LITIGATION REGARDING SCOTTSDALE INSURANCE AS IT RELATES TO DE ANZA COVE LITIGATION AND AUTHORIZING THE CITY COMPTROLLER TO EXPEND RELATED FUNDS

WHEREAS, this insurance lawsuit arises out of Scottsdale Insurance's payment of legal defense costs in the action entitled Scottsdale Insurance Company v. City of San Diego dba:

Mission Bay Mobile Home Park, San Diego Superior Court Case No. 37-2008-00083941
CU-IC-CTL. Scottsdale Insurance seeks reimbursement of fees and costs paid in that matter, stating it had no coverage obligations after certain rulings by the Superior Court in that action; and

WHEREAS, the defense of the aforementioned case involves a highly specialized area of law; and

WHEREAS, the firm of Latham & Watkins LLP has the necessary skills and experience to assist the City in defense of this matter; and

WHEREAS, the Council of the City of San Diego has been briefed on the status of this matter in duly-noticed Closed Session on June 24, 2008, the City Council voted on Item CS-3, authorizing \$100,000 to defend the case Scottsdale Insurance Company v. City of San Diego dba: Mission Bay Mobile Home Park, San Diego Superior Court Case No. 37-2008-00083941-CU-IC-CTL. The motion was made by Councilmember Frye and seconded by Councilmember Atkins. The motion passed 7 to 0 with Councilmember Young absent; and

000928

WHEREAS, the Council determined to retain Latham & Watkins to assist the City

Attorney in defense of this matter; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the City Attorney is authorized to retain Latham & Watkins LLP for the provision of legal services in *Scottsdale*Insurance Company v. City of San Diego dba: Mission Bay Mobile Home Park, San Diego

Superior Court Case No. 37-2008-00083941-CU-IC-CTL, in an amount not to exceed \$100,000.

BE IT FURTHER RESOLVED, that the Comptroller is authorized to expend up to \$100,000 from the Public Liability Fund on this matter.

APPROVED: MICHAEL J. AGUIRRE, City	Attorney
By Lawrence V. Tomanek Chief Deputy City Attorney	
LVT:ca 07/16/2008 Aud. Cert.: AC 2900044 Or.Dept:CITY ATTY R-2008-1175	
I hereby certify that the foregoing Resolution v Diego, at this meeting of	was passed by the Council of the City of San
-	ELIZABETH S. MALAND City Clerk
	By Deputy City Clerk
Approved:(date)	JERRY SANDERS, Mayor
Vetoed:(date)	JERRY SANDERS, Mayor